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6 **IN THE UNITED STATES DISTRICT COURT**
7 **FOR THE DISTRICT OF ARIZONA**
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9 Chuck and Ann Fina Family Revocable Trust
10 Dated August 30, 1996,

11 Plaintiff,

12 v.

13 Thomas G Boyle, Sr, et al.,

14 Defendants.

No. CV-25-00273-TUC-JCH

ORDER

15 On June 5, 2025, Defendant Thomas G. Boyle, Sr, (“Defendant”) filed a notice of
16 “Federal Removal and Emergency Injunction” (Doc. 1) and Motion for Temporary
17 Restraining Order (Doc. 3). For the following reasons, the Court will remand this action to
18 Pima County Superior Court and deny as moot the accompanying Motion for Temporary
19 Restraining Order.

20 **I. Background**

21 Plaintiff, Chuck and Ann Fina Family Revocable Trust Dated August 30, 1996,
22 initiated this action in state court to quiet title over real property located in Pima County,
23 Arizona. Doc. 1 at 17–20. Defendant removed the matter to federal court and requests the
24 Court issue a temporary restraining order, a preliminary injunction, refer the matter to the
25 U.S. Attorney for criminal charges, and compensate Defendant for legal expenses and
26 “constitutional violations over twenty-three years.” *Id.* at 10–11. Defendant alleges this
27 Court has federal question jurisdiction over the action because it involves “federal patent
28 rights protected under 43 U.S.C. § 945; [and] civil rights violations under 42 U.S.C. §

1983.” *Id.* at 3–5.

2 II. Federal Question Jurisdiction

3 Under the federal removal statute, 28 U.S.C. § 1441, a defendant may remove “any
4 civil action brought in a State court of which the district courts . . . have original
5 jurisdiction.” Courts “strictly construe the removal statute against removal jurisdiction.”
6 *Gaus v. Miles, Inc.*, 980 F.2d 564, 566 (9th Cir. 1992). The “strong presumption against
7 removal jurisdiction means that the defendant always has the burden of establishing that
8 removal is proper, and that the court resolves all ambiguity in favor of remand to state
9 court.” *Hunter v. Philip Morris USA*, 582 F.3d 1039, 1042 (9th Cir. 2009).

10 Defendant fails to establish that removal is proper here because the underlying
11 action—to quiet title over real property—is a matter of state law. Federal courts have
12 original jurisdiction over “all civil actions arising under the Constitution, laws, or treaties
13 of the United States.” 28 U.S.C. § 1331. To determine whether an action arises under
14 federal law, a court applies the “well-pleaded complaint rule.” *Moore-Thomas v. Alaska*
15 *Airlines, Inc.*, 553 F.3d 1241, 1243 (9th Cir. 2009). “Under this rule, a claim arises under
16 federal law ‘only when a federal question is presented on the face of the plaintiff’s properly
17 pleaded complaint.’” *Id.* (quoting *Valles v. Ivy Hill Corp.*, 410 F.3d 1071, 1075 (9th Cir.
18 2005)). The Complaint here does not present a federal question and, as a result, does not
19 give rise to federal question jurisdiction. *See generally* Doc. 1 at 17–20.

20 Neither can Defendant invoke federal question jurisdiction by implicating federal
21 statutes in his notice of removal. “The federal question ‘must be disclosed upon the face of
22 the complaint, unaided by the answer or by the petition for removal.’” *Takeda v. Nw. Nat.*
23 *Life Ins. Co.*, 765 F.2d 815, 822 (9th Cir. 1985) (quoting *Gully v. First Nat’l Bank*, 299
24 U.S. 109, 113 (1936)). Defendant cannot remove the state action based on asserted claims
25 or defenses that purportedly raise questions of federal law. *See, e.g., Saldana v. Glenhaven*
26 *Healthcare LLC*, 27 F.4th 679, 688 (9th Cir. 2022) (“[A] federal defense is not a sufficient
27 basis to find embedded federal question jurisdiction.”).

28 Defendant argues federal jurisdiction is proper because the subject property

1 involves federal patent rights protected under 43 U.S.C. § 945. Doc. 1 at 5. Defendant
2 alleges the federal government owns the property and Defendant is “merely the title holder
3 attempting to preserve federal property interests.” *Id.* at 7. The Canal Act of 1890,
4 43 U.S.C. § 945, permits the federal government to create an easement across land in the
5 western United States for the construction of irrigation canals and ditches. *See Barnaud v.*
6 *Belle Fourche Irrigation Dist.*, 609 N.W.2d 779, 780 (S.D. 2000). Nothing in the pleadings
7 indicates the subject property is encumbered by such an easement. Further, federal interests
8 under the Canal Act are protected by statute, not by the stewardship of private individuals.

9 Defendant provides no authority to support the remaining claims for federal
10 question jurisdiction: “constitutional protection duty,” “veteran protection mandate,” and
11 “criminal conspiracy jurisdiction.” These jurisdictional bases are either nonexistent or
12 implausibly pleaded, and thus insufficient to invoke federal question jurisdiction over the
13 underlying complaint. Jurisdiction under 42 U.S.C. § 1983 is also unavailable here because
14 Defendant does not demonstrate that Plaintiff is a government entity or acting under color
15 of law.

16 Accordingly, the Court does not have jurisdiction to decide the Motion for
17 Temporary Restraining Order. Further, under 28 U.S.C. § 2283, “[a] court of the United
18 States may not grant an injunction to stay proceedings in a State court except as expressly
19 authorized by Act of Congress, or where necessary in aid of its jurisdiction, or to protect
20 or effectuate its judgments.” None of these circumstances apply here.

21 **III. Remand**

22 “Federal courts are courts of limited jurisdiction.” *Kokkonen v. Guardian Life Ins.*
23 *Co. of Am.*, 511 U.S. 375, 377 (1994). A court must examine its own subject matter
24 jurisdiction and may remand a case summarily if there is an obvious jurisdictional issue.
25 *Arbaugh v. Y&H Corp.*, 546 U.S. 500, 514 (2006); *Scholastic Ent., Inc. v. Fox Ent. Grp.,*
26 *Inc.*, 336 F.3d 982, 985 (9th Cir. 2003) (“While a party is entitled to notice and an
27 opportunity to respond when a court contemplates dismissing a claim on the merits, it is
28 not so when the dismissal is for lack of subject matter jurisdiction.”) (internal citations

1 omitted). Here, the Court lacks federal question jurisdiction over this matter and Defendant
2 has not plausibly pleaded any other mechanism for federal jurisdiction. Accordingly, the
3 Court will remand the case, dismiss this action, and deny all related requests as moot.

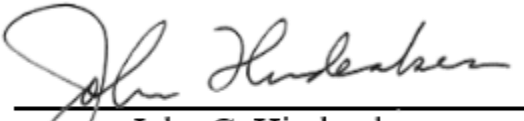
4 **IV. ORDER**

5 **IT IS ORDERED remanding** Pima County Case No. C2025-3183 to the Pima
6 County Superior Court and **dismissing** this matter.

7 **IT IS FURTHER ORDERED denying as moot** Defendant's Motion for
8 Temporary Restraining Order (Doc. 3).

9 Dated this 6th day of June, 2025.

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John C. Hinderaker
United States District Judge